IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C.W.P.No.5854-CAT-2007

Date of Decision : April 23, 2007

Jatinder Kumar and others .... Petitioners

Vs.

Central Administrative Tribunal,
Chandigarh Bench, Chandigarh and others .... Respondents

CORAM : HON'BLE MR.JUSTICE J.S.KHEHAR.

HON'BLE MR.JUSTICE L.N.MITTAL.

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Present : Mr.I.S.Sidhu, Advocate
for the petitioners.

Mr.Namit Kumar, Advocate
for the respondents.

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L.N.MITTAL, J. :

Separate office of Director Accounts (Postal), Jammu has been created, out of the office of Director Accounts (Postal), Kapurthala. Volunteers from the staff of parent office of Kapurthala were available at first and second stage of the new Directorate at Jammu and so, there was no difficulty or problem faced in implementing the first and second phase. However, while implementing the third phase, sufficient number of volunteers from the staff of parent office of Kapurthala were not available.

To meet the situation aforesaid for third phase, respondents no.2 to 5 identified the petitioners, being junior most in their respective cadres, for being allocated to the new office at Jammu. This action of respondents no.2 to 5 was challenged by the petitioners by filing

O.A.No.288-PB-2006 before Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for convenience, the Administrative Tribunal). The Administrative Tribunal, however, vide its impugned order dated 11.04.2007 (Annexure P-4) dismissed the said Original Application of the petitioners, along with another similar Original Application. Through the instant writ petition, the aforestated order of the Administrative Tribunal has been challenged.

Counsel for the petitioners vehemently contended that some posts are lying vacant in the office at Kapurthala and if those posts had been filled up, the petitioners would not have been the junior most employees and would not, therefore, have been identified for being transferred to the new office at Jammu. The contention, to our mind, is unacceptable because in the existing state of affairs, the petitioners undisputedly being the junior most in their respective cadres, have been identified for being allocated to the new office at Jammu, carved out of the parent office at Kapurthala. This is a very rational and logical criterion adopted by respondents no.2 to 5.

In the aforesaid context, it would not be out of place to notice that there was already a condition in the appointment letters of the petitioners that they would be liable to be transferred to any newly created office. In view of the said condition in the appointment letters of the petitioners also, they cannot challenge their allocation to the new office created at Jammu.

Counsel for the petitioners drew our attention to a letter dated 11.07.2006 (Annexure P-3) written by Chief Post Master General, J & K Circle, Srinagar wherein request was made to transfer the required number of vacant posts in all cadres to DAP Jammu along with work, since PAO Kapurthala is unable to relieve the staff and the vacant posts so transferred were proposed to be filled up by utilizing migrant staff immediately and later on, by seeking volunteers from Postal Divisions/SPCO etc., as was envisaged previously at the time of first and second phase of shifting, and

in case, the same is not accomplished, request would be made to Staff Selection Commission for recruitment of the staff. However, this request in letter Annexure P-3 does not help the petitioners because work of the office of DAP at Jammu is suffering on account of inadequate staff. As already noticed, sufficient volunteers from the existing staff were available for being allocated to the office of DAP at Jammu for first and second phase. The difficulty has arisen for implementation of third phase because sufficient number of volunteers from the existing staff are not available. So the submission based on letter Annexure P-3 cannot be accepted.

Counsel for the petitioner also referred to additional affidavit filed with a Miscellaneous Application, on behalf of the respondents (Annexure P-7), before the Administrative Tribunal. It has been affirmed in the said additional affidavit that identified juniors i.e. petitioners can be repatriated to their parent office at Kapurthala against existing future vacancies after the office at Jammu is able to fill up these posts. However, even according to this affidavit, the petitioners have to be allocated to the office at Jammu so that the work may not suffer or remain unattended in the said office for want of manpower. Moreover, this affidavit also shows that the proposal of Chief Post Master General, J & K Circle, Srinagar, vide Annexure P-3, referred to herein before, did not find favour with the concerned authority at New Delhi. So the petitioners can not derive any benefit out of the proposal contained in letter Annexure P-3.

For the reasons recorded herein above, we find no force in the arguments advanced on behalf of the petitioners. Consequently, the writ petition is dismissed.

(L.N.MITTAL)
JUDGE

April 23, 2007
monika

(J.S.KHEHAR)
JUDGE